

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BENEDICT EMESOWUM,)
)
Plaintiff,)
)
v.) Civil Action No.: 1:20-cv-113
 ((TSE/TCB)
ARLINGTON COUNTY, et al.,)
)
Defendants.)

**DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION TO
QUASH SERVICE OF PROCESS AND ROSEBORO NOTICE**

Defendants, Ashely Buxton, M. Kang, N. Mindell, S. Butzer, H. Buchofer, in their official capacity, and Arlington County, by counsel, move this Court to dismiss with prejudice Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(5) for insufficient service of process or, in the alternative, service of process quashed, and Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted for the reasons stated in Defendants' Memorandum of Law, which is filed with this Motion.

ROSEBORO NOTICE

Pursuant to Local Rule 7(k) and consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), counsel for Defendants advises Plaintiff of the following:

- (1) He is entitled to file a response opposing this motion and that any such response must be filed within twenty (21) days of the date on which this motion is filed; and
- (2) The Court could dismiss the action on the basis of Defendants' papers if Plaintiff does not file a response; and

(3) Plaintiff must identify all facts stated by these Defendants with which Plaintiff disagrees and must set forth Plaintiff's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

(4) Plaintiff is also entitled to file a legal brief in opposition to the one filed by Defendants.

Therefore, Defendants move this Court to grant its Motion to Dismiss with prejudice, with such other relief as is just and proper.

Respectfully Submitted,

ASHLEY BUXTON, M. KANG, N. MINDELL,
S. BUTZER, H. BUCHOFER, AND ARLINGTON
COUNTY

By Counsel

STEPHEN A. MACISAAC, County Attorney

By: _____ /s/
Ryan Samuel, Assistant County Attorney
Virginia Bar No. 84400
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, and mail a copy, postage pre-paid to:

Benedict Emesowum
1120 L Street NW #100-415
Washington, D.C. 20005
Pro se Plaintiff

/s/
Ryan Samuel
Assistant County Attorney